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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,871	08/30/2001	Peter A. Barany	NORT-0102-US 13554RRUS02U	2245
21906 7590 04/26/2007 TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER GAUTHIER, GERALD	
			ART UNIT	PAPER NUMBER
			2614	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/943,871

Applicant(s)

BARANY ET AL.

Examiner

Gerald Gauthier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-22 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 3 and 5-7 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 9-12, 14-17, 19-22 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 8 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 20-22 and 24-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The limitation "An article" is non-statutory is directed to a judicial exception to 35 U.S.C. 101 (i.e., an abstract idea, natural phenomenon, or law of nature) and is not directed to a practical application of such judicial exception

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
5. **Claim(s) 1-12, 14-19, 27 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Balachandran et al. (7,006,477 B1) in view of Ramjee et al. (US 6,842,462 B1).

Regarding **claim(s) 1**, Balachandran discloses a method of controlling communications in a wireless network (column 1, lines 14-17) comprising:

receiving, in a wireless network controller, an indicator that comprises one of plural training sequences (request access) in a message sent over an air link by a mobile station to establish a data transfer session in the wireless network (column 14, lines 60-67); and

selecting one of plural types of protocol stacks in the wireless network controller to use for communications over the air link between the wireless network controller and

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mobile station based on which of the plural training sequences is in the message (column 20, line 56 to column 21, line 16).

Balachandran fails to disclose the selection being done at the network side selecting the protocol stacks.

However, Ramjee teaches the wireless network selecting the protocol stacks based on the indicator (column 7, lines 19-30).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Balachandran using the teaching of the wireless network with multiple protocols as taught by Ramjee.

This modification of the invention enables the system to have the selection being done at the network side so that the user would have voice and data.

Regarding **claim(s) 4, 16 and 17**, Ramjee teaches on (column 7 lines 19-30), EGPRS protocol.

Regarding **claim(s) 9**, Balachandran discloses a method of controlling communications in a wireless network (column 1, lines 14-17) comprising:

receiving, in a wireless network controller, an indicator in a message sent by a mobile station to establish a data transfer session in the wireless network (column 14, lines 60-67); and

selecting one of plural types of protocol stacks to use for communications over an air link between the wireless network controller and mobile station based on the

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indicator, wherein receiving the indicator comprises receiving a parameter used for contention resolution by the wireless network controller for distinguishing between multiple mobile stations that are contending for a common resource (column 3, lines 11-25 and column 20, line 56 to column 21, line 16).

Balachandran fails to disclose the selection being done at the network side selecting the protocol stacks.

However, Ramjee teaches the wireless network selecting the protocol stacks based on the indicator (column 7, lines 19-30).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Balachandran using the teaching of the wireless network with multiple protocols as taught by Ramjee.

This modification of the invention enables the system to have the selection being done at the network side so that the user would have voice and data.

Regarding **claim(s) 10**, Balachandran discloses a method, further comprising performing contention resolution using the parameter (column 3 lines 11-25).

Regarding **claim(s) 11**, Ramjee teaches a method, wherein receiving the parameter comprises receiving a Temporary Logical Link Identity (column 7 line 19-30).

Regarding **claim(s) 12 and 15**, Balachandran discloses a system, wherein the first wireless protocol comprises a GERAN wireless protocol (column 20, line 56 to column 21, line 16).

Regarding **claims 14**, Balachandran discloses a system (column 1, lines 14-17) comprising:

an interface (12 on FIG. 1) to an air link to communicate with mobile stations; and
a controller (17 on FIG. 1) adapted to perform contention resolution with a first type of mobile station using a first type of indicator, the controller adapted to communicate signaling according to a first wireless protocol with the first type of mobile station, and the controller adapted to perform contention resolution with a second type of mobile station using a second type of indicator, the controller adapted to communicate signaling according to a second wireless protocol with the second type of mobile station (column 20, line 56 to column 21, line 16).

Balachandran fails to disclose the selection being done at the network side.

However, Ramjee teaches the wireless network selecting the protocol stacks based on the indicator (column 7, lines 19-30).

Therefore, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Balachandran using the teaching of the wireless network with multiple protocols as taught by Ramjee.

This modification of the invention enables the system to have the selection being done at the network side so that the user would have voice and data.

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Regarding **claim(s) 19**, Ramjee teaches a system, wherein the first value indicates one of a local TLLI, a foreign TLLI, and a random TLLI, and the second value indicates one of a local GCRI and a random GCRI (column 7 line 19-30).

Regarding **claims 24**, Balachandran discloses an article comprising at least one computer-readable storage medium containing instructions that when executed cause at least one processor in a wireless access system (column 1, lines 14-17) to:

perform contention resolution with a first type of mobile station using a first type of indicator(column 14, lines 60-67);

communicate signaling according to a first wireless protocol with the first type of mobile station (column 14, lines 60-67);

perform contention resolution with a second type of mobile station using a second type of indicator (column 3 lines 11-25); and

communicate signaling according to a second wireless protocol with the Second type of mobile station (column 20, line 56 to column 21, line 16).

Regarding **claims 25**, Balachandran discloses an article, wherein the instructions when executed cause the at least one processor in the wireless access system to select one of plural types of protocol stacks based on which of the first and second types of indicators is received (column 14, lines 60-67).

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Regarding **claims 26**, Balachandran discloses an article of claim 24, wherein performing contention resolution with the first type of mobile station comprises performing contention resolution using the first type of indicator to distinguish between the first type mobile station and at least another mobile station, and wherein performing contention resolution with the second type of mobile station comprises performing contention resolution using the second type of indicator to distinguish between the second type of mobile station and another mobile station (column 3 lines 11-25).

Regarding **claim(s) 27**, Ramjee teaches on column 7 lines 17–31, protocol stack is implemented between a mobile station, a base station, and a wireless network. The protocol stack must be selected among a mobile station, a base station, and a wireless (radio) network controller for the flow of wireless data communication.

Regarding **claim(s) 28**, Balachandran fails to teach “contention resolution using indicator to distinguish between different mobile stations”. As Balachandran discloses access technology is selected (contention resolution) in a multi-mode mobile station.

Therefore, “Official Notice” is taken that “multiple mobile stations with different modes” is old and well known to one skilled in the art.

It would have been obvious to one skilled in the art at the time the invention was made to modify Balachandran’s system so that selecting different access technologies among different terminals with different modes can be supported to the users.

Allowable Subject Matter

6. **Claim(s) 2, 3 and 5-7** are allowed.
7. **Claim(s) 8, 18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed February 21, 2007 have been fully considered but they are not persuasive.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gerald Gauthier
Primary Examiner
Art Unit 2614

GG
April 18, 2007